

REMARKS

This is a full and timely response to the Notice of Non-Compliant Amendment mailed July 14, 2008. Reconsideration and allowance of the application and pending claims are respectfully requested.

In the Notice, the Examiner argued that the affidavit submitted by Applicant is "unclear and inconsistent" because it specifies a disclosure date of 8-27-02 but presents a table that only identifies various due diligence dates in 2003.

Under 37 CFR § 1.131, an antedating affidavit shall establish that the claimed invention was either (i) reduced to practice prior to the effective date of the reference, or (ii) was conceived of prior to the effective date of the reference coupled with due diligence from prior to effective date to Applicant's subsequent filing date. See 37 CFR § 1.131(b). Therefore, according to 37 CFR § 1.131, a showing of (a) prior conception and (b) diligence from before the effective date of the applied reference through to Applicant's filing date is sufficient to antedate a reference.


In the present case, Applicant has presented proof that the claimed invention was conceived of prior to the effective date of the reference and proof of diligence from a time prior to effective date of the reference to Applicant's own filing date. In particular, Applicant presented proof that the claimed invention was conceived at least as of 8-27-02, the date of the Invention Disclosure document, and further has presented proof of diligence in preparing and filing the application that took place from January 2003 to July 2003. Therefore, Applicant has satisfied Rule 131 by presenting (a) proof of conception prior to June 30, 2003, the effective date of the Knauerhase reference (i.e., Applicant conceived of the invention at least by 8-27-02), and (b) proof

of diligence in preparing and filing the application that began prior to June 30, 2003 through to July 8, 2003, Applicant's filing date (i.e., diligence occurred beginning no later than June 27, 2003 and continued through to the Applicant's filing date of July 8, 2003). In view of that, Applicant respectfully submits that the filed affidavit is neither unclear nor inconsistent, and further that the affidavit satisfies the requirements of 37 CFR 1.131(b). Applicant therefore respectfully requests that the Knauerhase reference be withdrawn.

CONCLUSION

Applicant respectfully submits that Applicant's pending claims are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

Respectfully submitted,



David Risley
Registration No. 39,345